

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
Federal-State Joint Board on Universal)	
Service)	
)	
Dobson Cellular Systems, Inc.)	CC Docket No. 96-45
)	
Petition for Waiver of Section 54.314(d) of)	
the Commission's Rules)	

**DOBSON CELLULAR SYSTEMS, INC.
PETITION FOR WAIVER OF SECTION 54.314(d) OF THE COMMISSION'S RULES**

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SUMMARY

Dobson Cellular Systems, Inc. (“Dobson”) hereby requests waiver of Section 54.314 of the Commission’s Rules to enable Dobson to receive high-cost universal service support commencing February 2, 2005, the date upon which the Public Utility Commission of Texas (“Texas PUC”) granted Dobson’s application for designation as a competitive eligible telecommunications carrier (“ETC”) in certain rural telephone company study areas in the State of Texas. Without the requested waiver, Dobson will not be eligible to receive support until the fourth quarter of 2005, over seven months after its designation as an ETC. Because of the timing of its ETC designation, Dobson cannot benefit from the Commission’s recent revisions to section 54.314(d).

Grant of the requested waiver will be consistent with the Commission’s well-established precedent. It will also be consistent with the spirit of the Commission’s March 17, 2005 *Report and Order* amending 47 C.F.R. § 54.314(d) to provide relief to newly designated ETCs. Most importantly, grant of the requested waiver will advance the public interest and benefit consumers in rural and high-cost areas of Texas by promoting the provision of universal service.

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To: Wireline Competition Bureau

**DOBSON CELLULAR SYSTEMS, INC.
PETITION FOR WAIVER OF SECTION 54.314(d) OF THE COMMISSION'S RULES**

PETITION FOR WAIVER

Dobson Cellular Systems, Inc. ("Dobson"), by its counsel and pursuant to 47 C.F.R. §§ 1.3 and 1.925(b), hereby requests waiver of Section 54.314 of the Rules of the Federal Communications Commission ("Commission"), 47 C.F.R. § 54.314. Specifically, Dobson requests waiver of the certification filing deadlines set forth in 47 C.F.R. § 54.314(d)(1)-(3) to enable Dobson to receive high-cost universal service support commencing February 2, 2005, the date upon which the Public Utility Commission of Texas ("Texas PUC") granted Dobson's application for designation as a competitive eligible telecommunications carrier ("ETC") in certain rural telephone company study areas in the State of Texas.¹

I. BACKGROUND

Dobson is a provider of commercial mobile radio service ("CMRS") in the State of Texas. On January 9, 2004, Dobson filed an Application with the Texas PUC seeking

¹ *Application of Dobson Cellular Systems, Inc. for Eligible Telecommunications Carrier (ETC) Designation Pursuant to 47 U.S.C. § 214(e) and P.U.C. Subst. R. 26.418*, PUC Docket No. 29144, *Order* (rel. Feb. 2, 2005) ("Dobson Texas Order") (attached as **Exhibit A** hereto).

designation as an ETC in the study areas of four rural telephone companies: Colorado Valley Telephone Cooperative, Inc., Comanche County Telephone County, Inc., Industry Telephone Company, Inc. (“Industry Telephone”), and Ganado Telephone Company, Inc. (collectively, the “Rural Designated Areas”).

On February 2, 2005, the Texas PUC granted Dobson’s Application designating the Company as a competitive ETC in the Rural Designated Areas.² On March 29, 2005, Dobson certified to the Texas PUC that it would use all federal high-cost universal service support received for the Rural Designated Areas in 2005 only for the provision, maintenance, and upgrading of the facilities and services for which the support is intended pursuant to Section 254(e) of the Telecommunications Act of 1996 (the “Act”), and requested that the Texas PUC certify Dobson’s use of such support for the Rural Designated Areas, except for the Industry Telephone study area, to the Commission and the Universal Service Administrative Company (“USAC”).³ On April 7, 2005, the Texas PUC issued an order indicating that it would certify Dobson’s use of federal high-cost universal service support received for the Rural Designated Areas (other than the Industry Telephone study area) in 2005 to the Commission and USAC.⁴ By letter dated April 26, 2005, the Texas PUC certified Dobson’s use of federal high-cost

² *Dobson Texas Order*, pp. 1, 24. The *Dobson Texas Order* conditioned Dobson’s receipt of federal universal service funding in the Industry Telephone study area upon the Texas PUC’s approval of a compliance filing regarding that study area. *Id.* That compliance filing has not yet been made.

³ A copy of this certification to the Texas PUC and motion is attached as **Exhibit B** hereto.

⁴ *Designation of Common Carriers as Eligible Telecommunications Carriers (ETC) to Receive Federal Universal Funds Pursuant to the Federal Communications Commission’s Fourteenth Report and Order Adopting A State Certification Process*, Docket No. 24481, *Order No. 12, Approving Request for Support in Certain Study Areas* (rel. Apr. 7, 2005) (attached as **Exhibit C** hereto).

universal service support received for the Rural Designated Areas (other than the Industry Telephone study area) in 2005 to the Commission and USAC.⁵

Dobson seeks to qualify for receipt of high-cost universal service support beginning February 2, 2005 for the Rural Designated Areas (other than the Industry Telephone study area). Dobson seeks a waiver of the annual state certification requirements set forth in Commission Rule 54.314(d)(1)-(3) that would otherwise require that the Texas PUC file a certification of Dobson's use of high cost funds on or before October 1, 2004 (over four months *before* Dobson was designated an ETC) to allow Dobson to qualify for receipt of federal universal service during the first, second, and third quarters of 2005. Waiver of these rules will enable Dobson to begin to receive federal universal service support commencing as of the date of its designation as a competitive ETC in Texas.

Under Commission Rule 54.314, if a State intends for the ETCs designated in rural telephone company study areas within its jurisdiction to receive federal high-cost universal service support, it must annually file with the Commission and USAC a certification stating that all federal high-cost support will be used by the companies only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. 47 C.F.R. § 54.314(a). To qualify for receipt of high-cost universal service support beginning in the first quarter of a given year, an ETC must be certified by the State on or before October 1 of the prior calendar year. 47 C.F.R. § 54.314(d)(1). Certifications for the second through fourth quarters of a year must be received by January 1 of the current year, certifications for the third and fourth quarters

⁵ Letter from Janis Ervin to Marlene H. Dortch and Irene Flannery dated April 26, 2005 (attached as **Exhibit D** hereto).

must be received by April 1, and certifications for only the fourth quarter must be received by July 1. 47 C.F.R. § 54.314(d)(1)-(4).

Pursuant to these deadlines, the Texas PUC would have been required to file Dobson's certification no later than October 1, 2004 to qualify the Company to receive high-cost universal service support for the first, second, and third quarters of 2005. 47 C.F.R. § 54.314(d)(1). However, because Dobson was not designated as a competitive ETC for the Designated Rural Areas until February 2, 2005, the Texas PUC could not have done so by the October 1, 2004 deadline. In fact, based on the April 26, 2005 date of the Texas PUC's certification, Dobson will not be eligible to receive high-cost support for the Rural Designated Areas until the fourth quarter of 2005. 47 C.F.R. § 54.314(d)(4). Further, the Commission's recent revisions to its certification filing deadlines do not obviate the need for a waiver in this case.⁶

As a result, strict adherence to Section 54.314 must be waived so that Dobson can begin to receive high-cost universal service support as of the date of its ETC designations. To do otherwise would deprive Dobson of much needed high-cost universal service support for the first nine months of 2005, even though the Company began providing service as an ETC in the Rural Designated Areas effective February 2, 2005.

II. REQUEST FOR WAIVER

The Commission's Rules expressly provide for waiver of any Rule if good cause is first established. 47 C.F.R. § 1.3. In addition, Section 1.925(b)(3) provides for a waiver where it is shown that

- (i) The underlying purpose of the rule(s) would not be served or would be frustrated by the application to the instant case, and that a grant of the requested waiver would be in the public interest; or

⁶ See *infra* Section II.C.

- (ii) In view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.

47 C.F.R. § 1.925(b)(3). Consistent with these Rules, the Commission “may exercise its discretion to waive a rule where particular facts would make strict compliance inconsistent with the public interest.” *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

In this case, strict adherence to the certification deadlines set forth in Section 54.314 would create the unintended consequence of preventing Dobson from receiving federal high-cost universal support for the first nine months of 2005, even though the Company was designated and providing service as a competitive ETC in the Rural Designated Areas effective February 2, 2005. Thus, Dobson would not receive timely and appropriate universal service support payments, despite the fact that it will have provided the supported services and operated as an ETC in the Rural Designated Areas from February 2, 2005 through September 30, 2005.

Grant of the requested waiver will advance the public interest and benefit consumers in rural and high-cost areas of Texas by promoting the provision of universal service. It will also be consistent with the Commission’s numerous prior orders in which it has granted waivers to newly designated ETCs. Finally, grant of the requested waiver will be consistent with the spirit of the Commission’s March 17, 2005 *Report and Order* and amendment to Section 54.314(d), which recognizes how strict adherence to the certification deadlines causes unnecessary delay in receipt of support by newly designated ETCs.⁷

⁷ *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Report and Order*, FCC 05-46 (rel. Mar. 17, 2005) (“*Report and Order*”).

A. The Limited Waiver Dobson Seeks Will Advance the Commission's Universal Service Goals

Granting Dobson's request for waiver of Section 54.314's certification deadlines will further the Commission's public policy goals of bringing access to mobile telecommunications technologies to all citizens by enabling Dobson to receive support for the provision, maintenance, and upgrading of facilities and services commensurate with its service as a competitive ETC. Without timely access to this support, Dobson cannot fully begin to fulfill the promises of the Act: "[t]o promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies." Pub. L. No. 104-104, 110 Stat. 56 (1996).

Furthermore, the Commission has found that "competitively neutral access to support is critical to ensuring that all Americans have access to affordable telecommunications."⁸ Denying support to Dobson, a competitive ETC, for eight months after its ETC designation merely because of the timing of that designation would undermine the Commission's goal of competitive neutrality.⁹

Universal service funding is vital to Dobson's ability to carry out its mission as a competitive ETC in Texas because it will allow Dobson to pursue the construction and upgrading

⁸ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Ninth Report and Order and Eighteenth Order on Reconsideration*, FCC 99-306, ¶¶ 89-90 (rel. Nov. 2, 1999), *rev'd in part and remanded in part*, *Qwest Corp. v. FCC*, 258 F.3d 1191 (10th Cir. 2001).

⁹ *See In the Matter of Federal-State Joint Board on Universal Service, Centennial Cellular Tri-State Operating Partnership, Centennial Claiborne Cellular Corp., Petition for Waiver of Section 54.313(d) of the Commission's Rules and Regulations*, CC Docket No. 96-45, *Order*, DA 04-2535, ¶ 9 (rel. Aug. 16, 2004) ("Centennial Order"); *In the Matter of Federal-State Joint Board on Universal Service, Grande Communications, Inc. Petition for Waiver of Sections 54.307 and 54.314 of the Commission's Rules and Regulations*, CC Docket No. 96-45, *Order*, DA 04-2534, ¶ 10 (rel. Aug. 16, 2004) ("Grande Order").

of its network to better serve customers within its designated ETC service areas. Dobson should not be unfairly handicapped, stalled, or otherwise delayed in pursuing its mission as an ETC by the strict application of rules that were never intended to undermine the purpose of an ETC designation. Dobson should not be denied several months worth of high-cost universal service support to which it is otherwise entitled simply because the timing of its ETC designation precluded the State of Texas from filing the certification required under Section 54.314 by the October 1, 2004, deadline – over four months *prior* to Dobson’s designation as a competitive ETC in the Rural Designated Areas.

B. The Limited Waiver Dobson Seeks is Consistent with Commission Precedent

The limited waiver that Dobson seeks is fully consistent with, and supported by, well-established Commission precedent. Indeed, the Commission has granted numerous similar waiver requests.¹⁰ In granting such waivers, the Commission has identified an ETC designation date as being a “special circumstance” that warrants a limited waiver to allow a new ETC to file retroactive certifications so that ETC support can timely commence.¹¹ Further, in granting a waiver to the State of West Virginia for the late filing of its certification for non-rural ETCs, the Commission reasoned that “the potential harm that would be suffered by customers [of the

¹⁰ See, e.g., *In the Matter of Federal-State Joint Board on Universal Service, N.E. Colorado Cellular, Inc., Petition for Waiver of Section 54.314(d) of the Commission’s Rules*, CC Docket No. 96-45, Order, DA 03-2482 (rel. July 25, 2003) (“*N.E. Colorado Order*”); *In the Matter of Federal-State Joint Board on Universal Service, Guam Cellular and Paging, Inc., Petition for Waiver of Section 54.314 of the Commission’s Rules and Regulations*, CC Docket No. 96-45, Order, DA 03-1169 (rel. Apr. 17, 2003) (“*Guam Cellular Order*”); *In the Matter of Federal-State Joint Board on Universal Service, RFB Cellular, Inc., Petition for Waiver of Section 53.314(d) and 54.307(c) of the Commission’s Rules and Regulations*, CC Docket No. 96-45, Order, DA 02-3316 (rel. Dec. 4, 2002) (“*RFB Order*”); *Centennial Order, Grande Order. See also Report and Order*, ¶ 89 (noting that the Commission has granted waivers of certification filing deadlines).

¹¹ *N.E. Colorado Cellular Order*, ¶ 6; *Guam Cellular Order* ¶ 6; *RFB Order*, ¶ 8; *Centennial Order*, ¶ 8; *Grande Order*, ¶ 9.

ETC...] justifies a waiver” and found that the loss of three months worth of universal service funding in similar circumstances would be “egregious.”¹² In this case, absent a waiver, Dobson will lose more than *eight* months of universal service funding.¹³

C. The Limited Waiver Dobson Seeks is Consistent With the Spirit of the Commission’s March 17, 2005 Report and Order

After Dobson’s designation as an ETC in the Rural Designated Areas, but before the Texas PUC certified Dobson’s use of high-cost support to the Commission and USAC, the Commission released its March 17, 2005 *Report and Order* concerning various aspects of the ETC designation process. In the *Report and Order*, the Commission specifically noted that due to the timing of their ETC designation date, newly designated ETCs may be unable to comply with the certification filing deadlines.¹⁴ The Commission further noted that, in such a case, the ETC could “suffer significant delay in receipt of support.”¹⁵ As described herein, Dobson faces the precise problem that the Commission described in the *Report and Order*.

In the *Report and Order*, the Commission specifically sought to address this problem by promulgating a series of new rules that provide that ETCs are eligible for support as of their ETC designation date, provided that the required certifications are filed within 60 days of the carrier’s

¹² *In the Matter of Federal-State Joint Board on Universal Service, West Virginia Public Service Commission, Request for Waiver of State Certification Requirements for High-Cost Universal Service Support for Non-Rural Carriers*, CC Docket No. 96-45, *Order*, DA 01-86, ¶ 7 (rel. Mar. 13, 2001).

¹³ Dobson’s was designated during the first quarter of 2005. Based on the Texas PUC’s certification on April 26, 2005 (between April 1 and July 1), Dobson would be eligible for support in the fourth quarter. 47 C.F.R. § 54.314(d)(4)-(5).

¹⁴ *Report and Order*, ¶¶ 89, 91.

¹⁵ *Id.*, ¶ 91.

ETC designation date.¹⁶ These rules will become effective 30 days after publication in the Federal Register.¹⁷ Such publication has not yet occurred, and so the rules are not yet effective.

Because of the timing of its ETC designation and the Texas PUC's certification, Dobson will not be able to take advantage of the new rules promulgated in the *Report and Order* – the Texas PUC granted Dobson's ETC petition more than 60 days ago, and the Texas PUC submitted its certification to the Commission and USAC before the new rules will become effective. However, the new rules and *Report and Order* provide additional support for Dobson's request that the Commission grant waive the certification deadlines of Section 54.314(d). In the *Report and Order*, the Commission recognized the timing problems that have arisen with regard to ETC designation and remedied them; Dobson's requested waiver merely asks the Commission to take a similar approach in Dobson's particular circumstance.

Furthermore, the Texas PUC certified Dobson's use of high-cost universal service support on April 26, 2005, only 83 days after the Company's ETC designation. Thus, even though Dobson and the Texas PUC were not aware of the new 60-day certification rule set forth in the *Report and Order* until several weeks after Dobson's ETC designation, the Company substantially complied with the new rule.

For all of the reasons stated above, good cause exists for the Commission to waive the certification filing deadlines set forth in Section 54.314(d) so that Dobson may receive high-cost universal service support in Texas commencing February 2, 2005 for the Rural Designated Areas (excluding the Industry Telephone study area).

¹⁶ *Id.*, ¶ 92; new sections 54.313(d)(3)(vi) and 54.314(d)(6)(iv).

¹⁷ *Id.*, ¶ 109; 47 C.F.R. § 1.427(a).

III. CONCLUSION

For the foregoing reasons, the Commission should grant Dobson's request for waiver of the certification filing deadlines set forth in 47 C.F.R. § 54.314 and accept the Texas PUC's April 26, 2005 certification of the Company's use of universal service support as timely filed for purposes of qualifying Dobson to begin receiving universal service support effective February 2, 2005 for the Rural Designated Areas (excluding the Industry Telephone study area).

Respectfully submitted,

Dated: April 29, 2005

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By: _____/s/

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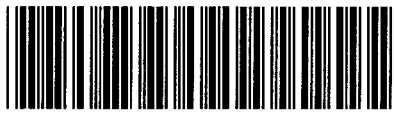
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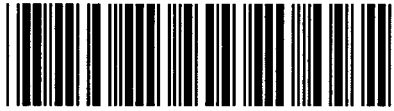
Counsel for Dobson Cellular Systems, Inc.

EXHIBIT A

February 2, 2005 Order Designating Dobson as an ETC in the Rural Designated Areas



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APPLICATION OF DOBSON	§	PUBLIC UTILITY COMMISSION
CELLULAR SYSTEMS, INC. FOR	§	
DESIGNATION AS AN ELIGIBLE	§	OF TEXAS
TELECOMMUNICATIONS	§	
CARRIER (ETC) PURSUANT TO 47	§	
U.S.C. 241(e) AND P.U.C. SUBST. R.	§	
26.418	§	

ORDER

I. Introduction

This Order grants the application of Dobson Cellular Systems, Inc. for designation as an eligible telecommunications carrier (ETC) in the study areas of four rural incumbent local exchange carriers (ILECs) – Colorado Valley Telephone Cooperative, Inc., Comanche County Telephone Company, Inc., Ganado Telephone Company, Inc., and Industry Telephone Company, Inc. For the reasons discussed in this Order, the Public Utility Commission of Texas (Commission) grants Dobson ETC designation in the requested study areas, but conditions Dobson's receipt of federal universal service funds (FUSF) in the Industry Telephone study area contingent upon approval of a compliance filing showing that Dobson's implementation of Phase II E911 service in that area meets federal requirements.

Accordingly, the Commission adopts in part and rejects in part the proposal for decision (PFD) issued by the State Office of Administrative Hearings (SOAH) administrative law judge (ALJ), including the findings of fact and conclusions of law, as discussed in this Order.

II. Discussion

A. Emergency Services

The ALJ found that, even though Dobson has not completed Phase II enhanced 911 (E911) implementation in Austin County, Dobson is not in violation of the federal 911 rules (47 C.F.R. § 20.18), and provides access to emergency services as required by the ETC rule (47 C.F.R. § 54.101(a)(5)).¹ Nevertheless, the ALJ found that, because Dobson had not yet implemented Phase II E911 in Austin County, which includes Industry Telephone's study area, if the Commission were to grant Dobson's ETC application, approval should be conditional. Specifically, the ALJ recommended that the Commission require Dobson to file evidence of Phase II E911 implementation in Austin County in the form of an affidavit.²

The Commission agrees with the ALJ's analysis regarding Dobson's provision of 911 service. Although the Commission is overturning the ALJ and granting Dobson ETC designation, the Commission concurs with the ALJ that Dobson's receipt of FUSF in Industry Telephone's study area should be conditioned upon a showing of implementation of Phase II E911 service in Austin County. Therefore, the Commission requires Dobson to submit a compliance filing consisting of an affidavit and any other relevant material attesting that its implementation of Phase II E911 service in Austin County meets the requirements of the Federal Communications Commission's (FCC's) rules. While Dobson will be designated as an ETC in Industry Telephone's study area, the Commission will withhold certification to the FCC and the Universal Service Administration Company (USAC) for this study area until Dobson's compliance filing is approved.

¹ Proposal for Decision at 12-13 (Oct. 6, 2004).

² PFD at 13. The Commission notes that, during the hearing on the merits, Dobson volunteered to condition its ETC designation and waive receipt of FUSF support in the Industry Telephone area until it deployed Phase II E911 in Austin County. Tr. at 290 (July 23, 2004).

B. Lifeline and LinkUp

The ALJ found that Dobson demonstrated that it will offer and advertise Lifeline and LinkUp service to qualifying low-income consumers in compliance with federal rules and P.U.C. SUBST. R. 26.418, but requested clarification from the Commission as to whether Dobson would be required to file tariffs pursuant to the Commission's Lifeline and LinkUp rule (P.U.C. SUBST. R. 26.412).³

The Commission concurs with the ALJ that Dobson adequately demonstrated that it will offer Lifeline and LinkUp service to qualifying low-income consumers in compliance with federal and state rules. The Commission notes that P.U.C. SUBST. R. 26.412, which includes a requirement to file tariffs, applies to all ETCs. Consequently, Dobson will be required to comply with the rule. In addition, consistent with prior decisions in other wireless ETC proceedings,⁴ the Commission requires Dobson to provide information regarding the availability of the Lifeline and LinkUp discounts in all service contracts, or in separate statements given to all customers.

To reflect the Commission's decision on this issue, conclusion of law 32 is amended to reflect the Commission's practice of requiring other wireless ETC applicants to include Lifeline and LinkUp information in their service plans or in separate handouts to all consumers, and new finding of fact 91A is added, requiring the same of Dobson in this case.

C. Advertisement of Analog Services

The ALJ found that Dobson's commitment to advertise the federally supported services met the requirements of both state and federal rules. However, the ALJ found

³ PFD at 22.

⁴ See *Application of WWC Texas RSA Limited Partnership, d/b/a CellularOne (Western Wireless) to Amend its Designation as an Eligible Telecommunications Carrier (ETC) in Certain Areas Served by Non-Rural Telephone Companies*, Docket No. 28688, Order at 2-3 (Nov. 24, 2004) (*Western Wireless II*); *Application of Dobson Cellular Systems, Inc. for Designation as a Federal Eligible Telecommunications Carrier and Petition to Redefine Certain Rural Service Areas*, Docket No. 28462, Order at 9, 11 (Jan. 14, 2005) (*Dobson Non-Rural*); and *Application of Sprint Corporation for Designation as an Eligible Telecommunications Carrier (ETC) Pursuant to 47 U.S.C. § 214(e) and P.U.C. SUBST. R. 26.418*, Docket No. 28495, Order at 2 (Jan. 14, 2005) (*Sprint*).

that Dobson does not advertise the analog capabilities of its network and suggested that, while this lack of advertisement does not violate the state or federal ETC rules, if the Commission were concerned about this issue, the Commission could order Dobson to advertise its analog capability. Further, the ALJ proposed that the Commission could require Dobson to maintain analog service beyond 2008, the current federal requirement.⁵

The Commission finds that neither the state nor federal ETC rules contain a requirement for any carrier to advertise analog network capabilities or maintain analog equipment. CMRS providers are subject to separate FCC rules and requirements for network design and equipment. Further, there is no evidence in the record in this proceeding regarding either of these issues on which to base such requirements. Therefore, the Commission declines to adopt a requirement that Dobson advertise the analog capabilities of its network or maintain the analog network beyond the current FCC requirement of 2008.

D. Public Interest

1. Public Interest Criteria

The ALJ examined Dobson's application pursuant to prior state and federal ETC orders and rules, and, using criteria set forth in these rules, the FCC's *Virginia Cellular* and *Highland Cellular* orders and the Commission's *Nextel Order*,⁶ concluded that Dobson's application was not in the public interest. The ALJ based this decision on the following determinations: (1) Dobson does not plan to change its current service offerings outside of Lifeline/LinkUp service, therefore the rural consumers in these areas

⁵ PFD at 20.

⁶ *Id.* at 23-24.

will not receive any benefit from ETC designation in the form of additional service offerings, and Dobson would not be competing more effectively than under the status quo in terms of price or terms and conditions of service;⁷ (2) Dobson's commitment to build three cell site towers is inadequate, as no evidence was submitted showing how much those cell sites would improve reception or signal strength in the study areas;⁸ (3) Dobson's commitment to spend \$640,000 in the study areas over the next two years demonstrates too little benefit for an approximate \$1.8 million if FUSF support over those two years, and, in order for the Commission to balance the benefits against the costs of ETC designation, Dobson should have indicated how it will use the FUSF support to benefit rural consumers in the designated areas;⁹ and (4) Dobson failed to show that it needed the ETC designation in order to provide the supported services in competition with the ILECs, and this lack of need does not meet the standard set by the Commission in *Nextel* that an ETC applicant demonstrate that its designation would be of material benefit above and beyond the *status quo* of its existing operations.¹⁰

However, the ALJ also found that Dobson demonstrated that its application would bring several public interest benefits to the areas, including: (1) Dobson demonstrated that it can provide the supported services in a reasonable time;¹¹ (2) its service offerings have advantages over ILEC offerings because of the mobility wireless service provides;¹² (3) the mobility of its services offers safety, convenience and economic growth needed in

⁷ *Id.* at 39.

⁸ *Id.* at 40.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.* at 38.

¹² *Id.*

low population density areas;¹³ (4) Dobson's compliance with the CTIA Code matches the commitment made in *Virginia Cellular* and *Highland Cellular*;¹⁴ and (5) the commitment to purchase backup generators and a cell on light truck Cell on Light Truck (COLT) to ensure continuity of service is a benefit to consumers.¹⁵

The Commission disagrees with the ALJ's ultimate conclusion, and finds that Dobson's application for designation as an ETC in the four rural ILEC study areas is in the public interest. In *Nextel*, the Commission acknowledged the fact-specific nature of each evaluation, due in part to the diversity of rural areas, and declined to adopt specific public-interest criteria.¹⁶ The Commission finds that, overall, the facts in this case demonstrate that Dobson will go above and beyond the *status quo* of its existing operations in these study areas, and warrant approval of Dobson's application.

The Commission disagrees with the ALJ that Dobson's commitment to build three cell site towers is insufficient because Dobson failed to also provide evidence of signal strength and reception improvements. The Commission is persuaded that this commitment, plus Dobson's commitment to follow the CTIA Consumer Code, add six hours of back-up power, install two portable generators dedicated to serving the ETC areas, and purchase of a COLT, demonstrate material investments beyond the *status quo* of its existing operations in the area that would be in the public interest.

In addition, the Commission disagrees with the ALJ that Dobson's infrastructure-spending commitments are insufficient because the planned expenditures do not exceed

¹³ *Id.*

¹⁴ *Id.* at 39.

¹⁵ *Id.*

¹⁶ In *Nextel*, the Commission also determined that an applicant seeking ETC designation in a rural ILEC's study area "must demonstrate that its designation is of material benefit above and beyond the *status quo* of its existing operations in the requested area." *Application of NCPR, Inc. d/b/a Nextel Partners for Eligible Telecommunications Carrier Designation*, Docket No. 27709, Order at 9 (June 30, 2004) (*Nextel Order*). The Commission, however recommended areas that applicants could address in greater detail that could prove persuasive in a public interest evaluation. *Id.* at 9.

the expected FUSF support. The Commission notes that the determination of eligibility to receive FUSF does not currently include a needs-based test. Therefore, the Commission declines to adopt the ALJ's analysis regarding the necessity of the FUSF support as it relates to the *Nextel Order* and Dobson's application.

Dobson's infrastructure commitments, coupled with the additional reporting requirements regarding customer complaints, customer satisfaction and capital expenditures (see discussion below), persuade the Commission that Dobson has shown that its designation will be of material benefit above and beyond the *status quo* of its existing operations in these study areas.

To reflect its decisions on these issues, the Commission deletes findings of fact 93, 101, 102, 103, 104, and 105, deletes conclusion of law 41, amends finding of fact 106 and conclusion of law 40, and adds finding of fact 100A.

The Commission also deletes finding of fact 72, as it conflicts with findings of fact 65, 91 and 92, amends finding of fact 91 to concur with finding of fact 92, and deletes finding of fact 97 as it is not necessary.

2. Reporting Requirements

The ALJ recommended that, if the Commission granted Dobson's application, Dobson be required to track its expenses and investment per designated service area to enable the Commission to monitor its compliance with FUSF spending requirements. The ALJ also recommended that Dobson be required to file an annual customer satisfaction survey and the number of complaints per 1,000 handsets when it files its application for annual certification as an ETC pursuant to P.U.C. SUBST. R. 26.418(j).¹⁷

The Commission concurs with the ALJ, and finds that these additional reporting requirements are in the public interest. Therefore, Dobson is required to track its expenses and investment for each study area, and submit the following information per study area on an annual basis with its FUSF certification application: (1) a separate affidavit attesting to Dobson's annual, as well as aggregate, expenses and investment in

¹⁷ PFD at 43.

each study area, with all relevant data attached; (2) the results of an annual customer satisfaction survey, and any relevant background documents, such as a copy of the survey itself; and (3) the total number of complaints received, per 1,000 handsets.

To reflect the Commission's decision in this issue, finding of fact 100B is added.

III. Other Changes to the PFD

The Commission makes the following additional changes to the PFD.

The Commission amends findings of fact 3, 4, 5, and 7, and conclusions of law 35, 38 and 39 to reflect that the areas at issue in this proceeding are rural ILEC study areas.

The Commission deletes finding of fact 39, as it inaccurately states that "Dobson's wireless service does not reach all of Austin County;" in fact, it is Dobson's Phase II E-911 service that does not reach all of Austin County.

The Commission corrects finding of fact 63 to reflect that Dobson will spend "\$1.7 million," not \$14 million, on advertising in Texas.

The Commission amends finding of fact 94 to include information on Dobson's commitment to provide battery back-up at cell sites.

The Commission has added references to the Commission's ETC rules to findings of fact 56 and 59 to reflect the application of the Commission's rules, as well as federal rules, in evaluating Dobson's filing.

IV. Findings of Fact

1. Dobson Cellular Systems, Inc. (Dobson) is a provider of commercial mobile radio services (CMRS) licensed by the Federal Communications Commission (FCC) to provide wireless services in Texas and elsewhere.
2. In *Application of Dobson Cellular Systems, Inc. for Designation as a Federal Eligible Telecommunications Carrier and Petition to Redefine Certain Rural Service Areas*, Docket No. 28462 (*Dobson Non-Rural*), Dobson originally applied

to be designated as an eligible telecommunications carrier (ETC) within 310 exchanges served by 26 incumbent local exchange carriers (ILECs).

3. In its Preliminary Order filed on November 24, 2003 in *Dobson Non-Rural*, the Public Utility Commission of Texas (Commission) found Dobson was required to offer the required services throughout the study areas of rural telephone companies in order to receive ETC designation in those areas. Dobson did not meet that requirement for most of the rural telephone companies affected by that application. Therefore, in accordance with the Preliminary Order, Dobson amended the application in *Dobson Non-Rural* to encompass only non-rural ILEC service areas.
4. After the Commission's Preliminary Order in *Dobson Non-Rural*, Dobson filed this application for ETC designation within the study areas of four rural ILECs: Colorado Valley Telephone Cooperative, Inc. (Colorado Valley), Comanche County Telephone Company, Inc. (Comanche County), Ganado Telephone Company, Inc. (Ganado), and Industry Telephone Company, Inc. (Industry).
5. Designation as an ETC would enable Dobson to receive support from the Federal Universal Service Fund (FUSF) for use in the study areas of these four rural ILECs.
6. The Commission issued its Preliminary Order in this case March 15, 2004.
7. In its Preliminary Order, the Commission determined it could grant ETC designation to a wireless carrier that commits to provide service throughout a rural ILEC's study area. The Commission determined Dobson's commitment to provide service to any customer throughout the study areas upon "reasonable request," as set forth in the application, did not on its face contravene P.U.C. SUBST. R. 26.418(b)(2).
8. In its Preliminary Order, the Commission identified the following issues to be addressed in this docket:
 - a. With respect to designation as an ETC, does Dobson satisfy the requirements of P.U.C. SUBST. R. 26.418?

- b. Does Dobson's commitment to serve customers upon "reasonable request" satisfy the criteria of P.U.C. SUBST. R. 26.418?
 - c. Would designation of Dobson as an ETC in the areas served by rural telephone companies be in the public interest?
9. The Commission referred this case to the State Office of Administrative Hearings (SOAH) March 24, 2004.
10. A prehearing conference was held April 28, 2004. The following entities, in addition to Dobson, were admitted as parties and subsequently participated in the case: Colorado Valley, Comanche County, Ganado, and Industry; Texas Statewide Telephone Cooperative, Inc. (TSTCI); the State of Texas, and the Commission Staff.
11. Dobson filed its supplemental direct testimony July 12, 2004, which suspended the effective date of its application until November 9, 2004.
12. The hearing was held July 22-23, 2004, before Administrative Law Judge Henry D. Card.
13. Dobson began providing wireless telephone services in 1990 in Oklahoma and the Texas Panhandle and now provides wireless services in portions of 16 states, with over 1.5 million subscribers.
14. Two of Dobson's Texas Rural Service Areas (RSAs) are affected by this application: RSA 9 -Runnels and RSA 16 - Burleson.
15. RSA 9 - Runnels includes the following counties: Runnels, Coleman, Eastland, Brown, Mills, Comanche, Erath, Somervell, Hamilton, Bosque, and Hill.
16. RSA 16 - Burleson includes the following counties: Burleson, Lee, Bastrop, Caldwell, Gonzales, Lavaca, Jackson, Matagorda, Wharton, Colorado, Fayette, Austin, and Washington.
17. Dobson markets its services in the affected areas under the brand name "Cellular One," which it uses under license.

18. Three of the rural ILECs that intervened in this case -- Colorado Valley, Ganado, and Industry -- are located entirely in RSA 16. The fourth, Comanche County, is located entirely within RSA 9.
19. Dobson serves approximately 2,300 customers in the study areas of those four companies.
20. Dobson, through its interconnection agreements with LECs, enables all its Texas customers to make and receive calls on the public switched telephone network within a minimum bandwidth of 300 to 3000 Hertz.
21. Dobson includes some amount of local usage in every service offering eligible for universal service support, and has committed to continue to do so.
22. The FCC has not specified any minimum amount of local usage for universal service offerings.
23. Dobson has committed to complying with any future minimum amounts for local usage.
24. Dual tone multi-frequency (DTMF) signaling is a method of signaling that facilitates the transportation of call set-up and call detail information, and makes "touchtone" dialing possible.
25. Dobson uses out-of-band digital signaling and in-band multi-frequency signaling that is functionally equivalent to DTMF signaling.
26. Dobson provides a dedicated message path for the length of a customer's wireless transmission, which is the functional equivalent of single-party service.
27. Dobson provides 911 access to all its Texas customers.
28. Enhanced 911(E911) service may be implemented in two phases. Phase I requires the ability to locate the originating cell site or base station of a 911 call. Phase II includes the ability to provide both automatic numbering information and automatic location information, when the public service answering point (PSAP) is capable of receiving such information.

29. Dobson has received and implemented requests for Phase I E911 with 100 percent of the PSAPs in its Texas service area.
30. To implement Phase II E911, carriers may choose either a handset-based or a network-based technology. Dobson has chosen a network-based solution.
31. Dobson has received requests for Phase II E911 service from the PSAPs of two counties, Austin and Henderson, which had not yet been fulfilled at the time of the hearing.
32. Industry's study area is partly within Austin County. None of the study areas at issue in this case is in Henderson County.
33. The Austin County PSAP requested Phase II E911 service on January 28, 2003; the Henderson County PSAP requested Phase II E911 service on July 29, 2003.
34. Dobson has worked with the PSAP administrators in both Austin and Henderson Counties to solve the technical obstacles to implementing Phase II E911 service.
35. In Henderson County, after receiving the request, Dobson worked with its third-party vendor to develop a "market plan" that outlines the equipment to be ordered and installed to implement location identification data. In that case, the vendor took approximately four months to develop a plan to meet the FCC's specifications. Mr. Kurtanich then contacted the Henderson County PSAP administrator and ordered the equipment.
36. Location identification is performed by triangulation among three cell sites.
37. In Austin County, triangulation was impossible because the cell sites were aligned in a "string of pearls" configuration. After working on a number of possible solutions, Dobson prepared a market plan that utilized a cell site in another county. After its vendor confirmed the plan would meet FCC specifications, Dobson provided that information to Austin County and ordered the equipment.
38. The administrators in both Austin County and Henderson County are satisfied with Dobson's implementation of Phase II E911.
39. DELETED

40. Dobson's implementation plans will provide Phase II E911 service within FCC accuracy specifications.
41. Dobson provides all its Texas customers with access to operator services.
42. Dobson provides all its Texas customers with access to interexchange service to make and receive interexchange calls.
43. Dobson provides all its Texas customers with access to directory assistance via "411" or "555-1212."
44. "Toll limitation" refers to the offering of either "toll control" or "toll blocking" to qualifying low-income customers.
45. "Toll control" allows consumers to specify a certain amount of toll usage that may be incurred per month or per billing cycle. "Toll blocking" allows consumers to elect not to allow the completion of outgoing toll calls.
46. At this time, Dobson cannot provide toll control. It can provide toll blocking to Lifeline customers upon request, however.
47. Dobson's coverage maps show that Dobson has coverage throughout the study areas, except for small portions in the southern part of the Comanche County area.
48. Although Dobson's drive tests generally show adequate signal throughout the study areas, they also show areas in which the signal falls below the level to which Dobson tries to engineer its network, as well as a number of "dead spots," in which a call was dropped.
49. Dobson has committed to providing service to any consumer within the study areas.
50. Dobson committed to take the following steps if a customer's signal coverage is unsatisfactory:
 - a. First, Dobson will determine whether the customer's equipment can be modified or replaced to provide service to the desired location.

- b. Second, Dobson will determine whether the customer could be provided with other network equipment, such as a booster, antenna, or three-watt unit, to provide service in the requested location.
 - c. Third, Dobson will determine whether adjustments at the nearest cell site can be made to provide service.
 - d. Fourth, Dobson will determine whether there are any other adjustments to either the network or the customer facilities that can be made to provide service.
 - e. Fifth, Dobson will explore the possibility of offering service via resale or roaming agreements with other carriers.
 - f. Sixth, Dobson will determine whether additional network infrastructure, such as an additional cell site, extender, or repeater, could be constructed to provide service, and evaluate the costs and benefits of using high-cost universal service support to serve a number of customers requesting service.
51. If Dobson still could not provide service after following the steps set out in the previous finding of fact, it would notify the Commission, which could determine whether Dobson had failed to meet its service obligations.
52. The ILEC tariffs do not assure service to all customers regardless of cost, but include line extension charges under certain circumstances.
53. Dobson's service commitment is equivalent to the commitment undertaken by the ILECs.
54. Dobson can provide service in some situations the ILECs cannot, *e.g.* in a remote pasture or in a car traveling down a rural road.
55. The booster technology and other steps set out by Dobson should cover all customers, including those in the small patches of Comanche County where Dobson's map does not show coverage.
56. Dobson has committed to providing service to any customer within the Comanche County study area pursuant to P.U.C. SUBST. R. 26.418(g)(1)(B)(ii).
57. Dobson can and will maintain analog network capability until 2008.

58. Dobson has committed to provide the federally supported services throughout the study areas for which it seeks ETC designation pursuant to P.U.C. SUBST. R. 26.418(g)(1)(B)(iv).
59. Dobson's current service offerings contain the federally supported services.
60. Dobson has committed to advertise the availability of the federally supported services and the corresponding charges in a manner that fully informs the general public within its designated ETC service areas of such services and charges, in the same media it currently employs to advertise its universal service offerings.
61. Dobson's service under the Cellular One brand is advertised through several media channels, including newspaper, radio, television, billboard, and print advertising.
62. Dobson advertises through point-of-sale marketing efforts and over the internet.
63. Dobson expects to spend approximately \$1.7 million in advertising in Texas in 2004.
64. Dobson maintains 26 retail store locations, although none is within the rural study areas at issue in this case.
65. Dobson can and will provide Lifeline service and discounts, and well as the one-time Link Up discount to qualifying consumers.
66. Dobson offers digital voice and digital feature services, including Caller ID, Message Waiting, *etc.*, to its entire population over its digital network. It has updated its network and, by the end of 2004, will offer enhanced data services throughout its service areas.
67. Dobson has adopted the Cellular Telecommunications and Internet Association's (CTIA's) Consumer Code for Wireless Service as its minimum benchmark.
68. Under the CTIA Code, a wireless carrier agrees to: (1) disclose rates and terms of service to customers; (2) make available maps showing where service is available; (3) provide contract terms to customers and confirm changes in service; (4) allow a 14-day trial period for new service; (5) provide specific disclosures in

advertising; (6) separately identify carrier charges from taxes on billing instruments; (7) provide customers the right to terminate service for changes to contract terms; (8) provide ready access to customer service; (9) promptly respond to consumer inquiries and complaints received from government agencies; and (10) abide by policies of consumer privacy.

69. The only direct consequence of failing to follow the CTIA Code is denial of the right to display the Code's "gold ribbon" logo, although another consequence could be the loss of customers.

70. The estimated size of the universal service fund for the second quarter of 2004 was \$910,181,029.

71. Dobson's portion of the universal service fund would be approximately .0025% of the total high-cost support available to all ETCs.

72. DELETED

73. Dobson markets its services by RSA rather than by rural LEC study area, and therefore cannot create specific plans for the areas at issue in this case.

74. If it receives ETC designation, Dobson committed to building three additional cell sites in 2005 and 2006, with the time line subject to adjustment depending on when ETC designation was received:

DESCRIPTION	LOCATION	ESTIMATED COST
construction of cell site tower to improve capacity and coverage in Comanche County study area	Stag Creek, TX	\$150,000
construction of cell site tower to improve capacity and coverage in Colorado Valley study area	West Point, TX	\$150,000
construction of cell site tower to improve capacity and coverage in Ganado study area	Lake Texana, TX	\$150,000

75. Dobson committed to making annual reports describing its progress on that and future construction.
76. If it receives ETC designation, Dobson will ensure that all cell sites serving the study areas will remain equipped with at least six hours of back-up power capabilities.
77. If it receives ETC designation, Dobson will purchase two portable generators to be dedicated to serving the study areas in case of an outage.
78. Generators cost approximately \$20,000 each.
79. If it receives ETC designation, Dobson will purchase a "cell on light truck (COLT)" -- essentially, a mobile cell site -- that will be available to serve the designated areas if a cell site were to go down or if other coverage or capacity issues needed a short-term remedy.
80. A COLT costs approximately \$150,000.
81. The ILECs charge the following rates for basic local service:

ILEC	Local Tariffed Rate Plus Federal Subscriber Line Charge
Colorado Valley	\$14.90/month
Comanche County	\$16.10/month
Ganado/Industry	\$13.60 - 17.10/month

82. Based on second quarter FUSF projections and Dobson's number of subscribers, Dobson will be eligible for approximately \$75,778 monthly (\$909,331 annually) in FUSF support.
83. The network and service improvements Dobson has committed to make, over calendar years 2005 and 2006, would cost \$640,000.
84. Increased competition is valuable in rural areas.
85. The designation of Dobson as an ETC would not adversely affect the universal fund in any significant way.

86. Dobson can provide the supported services within the designated area in a reasonable time, to the extent it is not already doing so.
87. Dobson's service offerings provide advantages over wireline service offerings because of the mobility wireless service provides rural customers.
88. Dobson's consumer protection standards are adequate to support ETC designation.
89. Dobson has committed to offering Lifeline and Link Up, as required, in the designated areas.
90. Lifeline and Link Up are particularly relevant to the provision of universal service.
91. Other than its Lifeline and LinkUp offerings, Dobson does not plan to change its current service offerings.
- 91A. It is appropriate to require Dobson to include language in all service contracts, or in separate statements given to all customers, that informs customers of the availability of Lifeline and LinkUp discounts.
92. Rural consumers, other than Lifeline customers, would not receive any benefit from ETC designation in the form of additional service offerings.
93. DELETED
94. Dobson's commitment to maintain battery back-up at cell sites, and to purchase back-up generators and a COLT to ensure continuity of service, though not large financially, is a concrete and specific benefit to the consumers.
95. Although the maps provided in Dobson's application and testimony are not particularly detailed, they should be sufficient to show whether a customer is within Dobson's designated rural ETC area, because all customers of the rural ILECs would be within those designated areas.

96. The information regarding the cell sites Dobson has committed to build consists of the cell site names and a cursory statement that each will improve service in one of the study areas.
97. DELETED
98. Dobson did not correlate the general cell site locations with the results of Dobson's drive tests.
99. Dobson provided no engineering testimony or studies to explain its rationale for building the particular cell sites.
100. The evidence is inadequate to allow the Commission to judge how much, if any, those new cell sites would improve reception or signal strength in the study areas.
- 100A. Dobson demonstrated that its designation – specifically the addition of three cell towers, six hours of back-up power, two portable generators dedicated to serving the ETC areas, the purchase of a COLT, a commitment to follow the CTIA Code, and additional reporting requirements – would bring material benefit above the *status quo* of its existing operations.
- 100B. It is in the public interest for Dobson to track its expenses and investment for each study area, and submit the following information per study area on an annual basis with its FUSF certification application: (1) a separate affidavit attesting to Dobson's annual as well as aggregate expenses and investment in each study area, with all relevant data attached; (2) the results of an annual customer satisfaction survey, and any relevant background documents, such as a copy of the survey itself; and (3) the total number of complaints received, per 1,000 handsets.
101. DELETED
102. DELETED
103. DELETED
104. DELETED
105. DELETED

106. Designation of Dobson as an ETC would be of material benefit above and beyond the *status quo* of its existing operations in the study areas.

V. Conclusions of Law

1. The Commission has jurisdiction over this docket pursuant to the Federal Telecommunications Act of 1996, 47 U.S.C. § 214(e), and the Public Utility Regulatory Act (PURA), TEX. UTIL. CODE ANN. §§ 52.001 *et seq.* (Vernon 1998 and Supp. 2004-2005).
2. The notice provided in this docket is legally sufficient under P.U.C. PROC. R. 22.55 and P.U.C. SUBST. R. 26.418(g) [16 TEX. ADMIN. CODE §§22.55 and 26.418(g)].
3. SOAH has jurisdiction over all matters relating to the conduct of the hearing in this proceeding, including the preparation of a Proposal for Decision with Findings of Fact and Conclusions of Law in accordance with PURA § 14.053 and TEX. GOV'T CODE ANN. § 2003.049.
4. The Federal Telecommunications Act of 1996 requires the FCC and the states to act jointly to establish a mechanism for universal service support to ensure the availability of quality, affordable telecommunications services to all Americans. 47 U.S.C § 254(a).
5. The federal mechanism for universal service support is the FUSF.
6. To be eligible for FUSF support, a carrier must be an ETC.
7. To be designated as an ETC, the carrier must meet the requirements of 47 Code of Federal Regulations (C.F.R.) § 54.201(d).
8. The Commission has incorporated the federal requirements into P.U.C. SUBST. R. 26.418.
9. To be designated as an ETC in an area served by a rural ILEC, a carrier must prove:
 - a. it is a common carrier under federal law [P.U.C. SUBST. R. 26.418(a)];

- b. it offers the services specified for FUSF support in 47 C.F.R. § 54.101(a) (the federally supported services) throughout the rural ILEC's study area, either through its own facilities or a combination of its own facilities and resale of another carrier's services [P.U.C. SUBST. R. 26.418(b)(2) and (c)(1)];
 - c. it advertises the availability of and charges for such services using media of general distribution [P.U.C. SUBST. R. 26.418(c)(2)];
 - d. it offers Lifeline Service to qualifying low-income consumers, and toll limitation services [P.U.C. SUBST. R. 26.418(d)(2-3)]; and
 - e. designation of the requesting carrier as an ETC is in the public interest [P.U.C. SUBST. R. 26.418(e)(2)].
- 10. The following services are designated for support in 47 C.F.R. § 54.101(a): (1) voice grade access to the public switched network; (2) local usage; (3) dual tone multi-frequency signaling; (4) single-party service; (5) access to emergency services; (6) access to operator services; (7) access to interexchange service; (8) access to directory assistance; and (9) toll limitation for qualifying low-income consumers.
- 11. Under P.U.C. SUBST. R. 26.418(e), the Commission may designate an additional ETC if that carrier meets the requirements and if the Commission finds the designation is in the public interest.
- 12. As set forth in the *Nextel Order (Application of NPCR, Inc. d/b/a Nextel Partners for Eligible Telecommunications Carrier Designation, Docket No. 27709, June 30, 2004)*, for rural ILEC study areas, an applicant bears the burden of showing that its designation would be in the public interest.
- 13. A state commission cannot require a carrier to prove it is providing service throughout the service area as a condition of eligibility for ETC designation. Instead, the carrier must demonstrate its capability and commitment to providing universal service. Federal-State Joint Board on Universal Service, *Petition of Western Wireless for Preemption of an Order of the South Dakota Public Utility Commission*, CC Docket No. 96-45, Declaratory Ruling (rel. Aug. 10, 2000).
- 14. Dobson is a common carrier as defined in 47 U.S.C. § 153(10).

15. Dobson provides voice-grade access to the public switched network, as required by 47 C.F.R. § 54.101(a)(1).
16. Dobson offers local usage, as required by 47 C.F.R. § 54.101(a)(2).
17. Dobson offers DTMF, as required by 47 C.F.R. § 54.101(a)(3).
18. Dobson provides single-party service, as required by 47 C.F.R. § 54.101(a)(4).
19. Dobson has not violated 47 C.F.R. § 20.18 in its timing of Phase II E911 service in Austin and Henderson Counties.
20. If a carrier is fulfilling its obligations under 47 C.F.R. § 20.18, it is fulfilling its obligation to provide E911 under 47 C.F.R. § 54.101(a)(5).
21. Dobson's Phase II E911 plans are designed to comply with the accuracy requirements of 47 C.F.R. § 20.18.
22. Dobson provides, or has committed to provide, access to emergency services as required by 47 C.F.R. § 54.101(a)(5).
23. Dobson provides all its Texas customers with access to operator services, as required by 47 C.F.R. § 54.101(a)(6).
24. Dobson provides all its Texas customers with access to interexchange service to make and receive interexchange calls, as required by 47 C.F.R. § 54.101(a)(7).
25. Dobson provides all its Texas customers with access to directory assistance via "411" or "555-1212," as required by 47 C.F.R. § 54.101(a)(8).
26. The FCC does not require a carrier to offer toll control and toll blocking if it is incapable of doing so. 47 C.F.R. § 54.400(d).
27. Dobson can provide toll limitation, as required by 47 C.F.R. § 54.101(a)(9).
28. The existence of dead spots does not preclude designation of a carrier as an ETC. *Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, FCC-03-338, Memorandum Opinion and Order at ¶ 23 (rel. Jan. 22, 2004) (*Virginia Cellular*).

29. Service to the hearing-impaired is not an ETC issue. *Nextel Order* at 7.
30. Dobson's failure to advertise the availability of analog services does not place it in violation of P.U.C. SUBST. R. 26.418.
31. Dobson has committed to provide the federally supported services throughout the study areas for which it seeks ETC designation, as required by P.U.C. SUBST. R. 26.418(b)(2) and (c)(1).
32. Neither the FCC nor the Commission has adopted any particular standard for federal ETCs regarding the advertising requirement found in P.U.C. SUBST. R. 26.418(c)(2). However, in other wireless ETC proceedings, the Commission has required Lifeline and LinkUp information to be distributed to all customers, or included in all service contracts.
33. Dobson has committed to advertise the availability of and charges for the federally supported services, as required by P.U.C. SUBST. R. 26.418(c)(2).
34. Dobson has committed to providing Lifeline and Link Up services, and toll limitation, as required by P.U.C. SUBST. R. 26.418(d)(2-3).
35. The public interest requirement for designation of an ETC in a rural ILEC study area is found in the Federal Telecommunications Act of 1996 at 47 U.S.C. §214(e) and in P.U.C. SUBST. R. 26.418(e)(2).
36. In *Virginia Cellular*, the FCC considered whether the benefits of an additional ETC in rural service areas outweighed any potential harms. The FCC weighed the benefits of increased competitive choice, the impact of the designation on the universal service fund, the unique advantages and disadvantages of the competitor's service offering, any commitments made regarding quality of telephone service, and the competitive ETC's ability to satisfy its obligation to serve the designated service areas within a reasonable time frame. *Virginia Cellular Order* at ¶28.

37. State commissions have the authority to adopt additional criteria for federal universal service recipients, as long as those criteria do not conflict with the federal standards. 47 U.S.C. §254(f).
38. As set forth in the *Nextel Order*, an applicant for ETC designation in a rural ILEC study area must demonstrate that its designation is of material benefit above and beyond the *status quo* of its existing operations in the requested areas.
39. As set forth in the *Nextel Order*, information on the following criteria may be pertinent to an ETC determination for a rural ILEC study area: (1) service offerings, including additional service offerings for the proposed ETC designation areas, (2) additional service quality commitments, (3) detailed coverage areas, (4) continuation of service commitments, such as back-up power capability, and (5) consumer protection standards, and (6) information regarding how the company will better serve the consumer if granted designation.
40. Dobson's designation is in the public interest, as required by 47 U.S.C. § 214(e) and P.U.C. SUBST. R. 26.418(e)(2).
41. DELETED

VI. Ordering paragraphs

1. The application of Dobson for designation as an ETC in the study areas of the following four rural ILECs is granted: Colorado Valley Telephone Cooperative, Inc., Comanche County Telephone Company, Inc., Ganado Telephone Company, Inc., and Industry Telephone Company, Inc.
2. The Commission will certify to the FCC and USAC Dobson's eligibility to receive FUSF support in Industry Telephone's study area, contingent upon approval of Dobson's compliance filing showing that Dobson's implementation of Phase II enhanced 911 service in Industry Telephone's study area meets FCC requirements.

3. Dobson shall include language in all service contracts, or in separate statements given to all customers, advising customers of the availability of the Lifeline and LinkUp discounts and the requirements for such discounts.
4. For each study area, Dobson shall track its expenditures and investments, and submit the following information per study area on an annual basis with its FUSF certification application: (1) a separate affidavit attesting to Dobson's annual as well as aggregate expenses and investment in each study area, with all relevant data attached; (2) the results of an annual customer satisfaction survey, and any relevant background documents, such as a copy of the survey itself; and (3) the total number of complaints received, per 1,000 handsets.
5. All other motions, requests for entry of specific findings of fact or conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are denied.

SIGNED AT AUSTIN, TEXAS the 2nd day of February 2005.

PUBLIC UTILITY COMMISSION OF TEXAS



PAUL HUDSON, CHAIRMAN



BARRY T. SMITHERMAN, COMMISSIONER

I respectfully dissent from the portion of this decision wherein the Commission holds that granting Dobson's ETC designation is in the public interest. Instead, I agree with the ALJ's conclusion on the public interest issue, and I would affirm the Proposal for Decision.



JULIE FARSLEY, COMMISSIONER

EXHIBIT B

Dobson's March 29, 2005 Section 254(e) Certification to the Texas PUC

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MARIANNE CARROLL

DAVID B. GROSS, P.C.

CHRIS REEDER

ELIZABETH DREWS

WRITER'S DIRECT DIAL NUMBER IS (512) 320-5954

March 29, 2005

Filing Clerk
Central Records
Public Utility Commission of Texas
1701 North Congress Avenue
Austin, TX 78701

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PUBLIC UTILITY COMMISSION
FILING CLERK

Re: Docket No. 24481 – State Certification of Dobson Cellular Systems, Inc.
for Federal Universal Service Funds

Dear Sir or Madam:

Enclosed please find the original and ten (10) copies of the Motion of Dobson Cellular Systems, Inc. ("Dobson") pursuant to PUC SUBST. R. 26.418(j) and the Orders in Docket 24481 requesting that the Public Utility Commission of Texas (the "Commission") notify the Universal Service Administrative Company ("USAC") and the Federal Communications Commission ("FCC") that Dobson is eligible to receive high-cost support in accordance with 47 U.S.C. § 214(e), consistent with the Commission's designation of Dobson as an ETC in Docket No. 29144, SOAH Docket No. 473-04-4450.

PUC Subst. R. § 26.418(j) and Orders No. 1 and 2 in Docket 24481 require that carriers certify to the Commission that universal service support is being used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. To that end, please find as **Exhibit A** to the Motion an original and ten (10) copies of the executed affidavit of Thomas A. Coates.

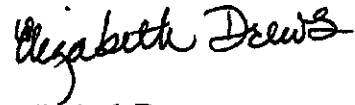
Please contact Philip R. Schenkenberg or Matthew A. Slaven at 651-808-6600 if you have any questions.

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PUC Filing Clerk
March 29, 2005
Page 2

Sincerely,

A handwritten signature in cursive script that reads "Elizabeth Drews".

Elizabeth Drews

cc: Mark Gladney, PUC
Philip R. Schenkenberg, Esq.

1754041v2

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PUC DOCKET NO. 24481

DESIGNATION OF COMMON CARRIERS)	
AS ELIGIBLE TELECOMMUNICATIONS)	
CARRIERS (ETC) TO RECEIVE FEDERAL)	BEFORE THE
UNIVERSAL SERVICE FUNDS PURSUANT)	PUBLIC UTILITIES COMMISSION
TO THE FEDERAL COMMUNICATIONS)	OF TEXAS
COMMISSION'S FOURTEENTH REPORT)	
AND ORDER ADOPTING A STATE)	
CERTIFICATION PROCESS)	

**MOTION OF DOBSON CELLULAR SYSTEMS, INC. FOR EXPEDITED APPROVAL
OF CERTIFICATION TO RECEIVE FEDERAL UNIVERSAL SERVICE SUPPORT**

COMES NOW DOBSON CELLULAR SYSTEMS, INC. ("Dobson") and in support of
its motion for expedited relief states as follows:

By Order issued February 2, 2005, in Docket No. 29144, Dobson was designated by the
Public Utility Commission of Texas ("Commission") as an eligible telecommunications carrier
("ETC") in certain rural telephone company study areas.¹

In order to receive high-cost support from the federal universal service fund pursuant to
this ETC designation, Dobson must certify to the Commission that all federal high-cost support it
receives will be used only for the provision, maintenance, and upgrading of facilities and
services for which the support is intended, consistent with Section 254 of the Federal
Telecommunications Act of 1996.

Pursuant to P.U.C. SUBST. R. 26.418(j)(1), this certification from Dobson to the

¹ *Application of Dobson Cellular Systems, Inc. for Designation as an Eligible
Telecommunications Carrier ("ETC") Pursuant to 47 U.S.C. § 214(e) and P.U.C. Subst. R.
26.418, Docket No. 29144, SOAH No. 473-04-4450, Order, Oct. 5, 2004 ("ETC Order").
Dobson's designation as an ETC in the Industry Telephone Company, Inc. study area
(SAC 442093) is contingent upon Commission approval of the Company's compliance filing,
which has not yet occurred. ETC Order, p. 24.*

Commission is to be submitted by September 1 of each year. However, because Dobson's ETC designation was not granted until February 2, 2005, Dobson was unable to meet the September 1, 2004 deadline.²

Attached hereto as **Exhibit A** is an affidavit of the corporate officer responsible for certifying Dobson's use of federal high-cost support for 2005. This affidavit is submitted pursuant to P.U.C. SUBST. R. 26.418(j)(2), which provides that carriers not meeting the September 1 deadline of P.U.C. SUBST. R. 26.418(j)(1) may be subsequently certified by the Commission as eligible for receipt of federal high-cost universal service support.

Attached hereto as **Exhibit B** is a letter for the Commission's use in informing the Federal Communications Commission ("FCC") and Universal Service Administrative Company ("USAC") that it has certified Dobson as eligible to receive federal high-cost universal service support. Pursuant to 47 C.F.R. § 54.314(d)(3), filing of the Commission's certification letter with the FCC and USAC on or before April 1, 2005, will permit Dobson to receive federal universal service support for the third and fourth quarters of 2005. If the Commission's certification to the FCC and USAC is not filed until after April 1, 2005, Dobson will not be eligible to receive federal universal service support until the fourth quarter of 2005, resulting in unnecessary delay to the delivery of universal service to the consumers in the areas for which Dobson is designated as an ETC.

² Dobson attempted to certify its use of high-cost support in advance of its ETC designation, but the Commission determined that it should not do so, noting that "if and when Dobson Cellular receives ETC designation it can file an affidavit with the Commission and seek to be included with the previously certified carriers and may receive support for the appropriate quarters of the year pursuant to FCC regulations." *Designation of Common Carriers as Eligible Telecommunications Carriers (ETC) to Receive Federal Universal Funds Pursuant to the Federal Communications Commission's Fourteenth Report and Order Adopting A State Certification Process*, Docket No. 24481, Order No. 11, Amendment of Order No. 10, 2004 Certification Process, Approval of Affidavits for State Certification of Eligible ETC Status to Receive Federal Universal Service Support, October 1, 2004, p. 2.

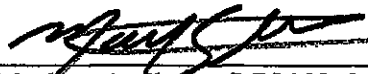
Wherefore, based on the foregoing, Dobson respectfully requests that this Commission grant the following relief:

- (i) Certify to the FCC and USAC that Dobson is an ETC eligible to receive federal high-cost support during 2005, exclusive of the Industry Telephone Company, Inc. study area (SAC 442093);
- (ii) File the certification with the FCC and USAC on or before April 1, 2005.

Respectfully submitted,

Dated: March 29, 2005

BRIGGS AND MORGAN, P.A.

By: 
Matthew A. Slaven (MN 288226)
2200 First National Bank Building
332 Minnesota Street
Saint Paul, Minnesota 55101
Phone (651) 808-6600
Facsimile (651) 808-6450
mslaven@briggs.com

**CARROLL, GROSS, REEDER
& DREWS, L.L.P.**

Elizabeth H. Drews (TX Bar No. 08687200)
701 Brazos, Suite 970
Austin, Texas 78701
Phone: 512-320-5951
Facsimile: 512-320-5920
edrews@carrollgross.com

**ATTORNEYS FOR DOBSON CELLULAR
SYSTEMS, INC.**

DOCKET NO. 24481

DESIGNATION OF COMMON CARRIERS)	
AS ELIGIBLE TELECOMMUNICATIONS)	
CARRIERS (ETC) TO RECEIVE FEDERAL)	BEFORE THE
UNIVERSAL FUNDS PURSUANT TO THE)	PUBLIC UTILITY COMMISSION
FEDERAL COMMUNICATIONS)	OF TEXAS
COMMISSION'S FOURTEENTH REPORT)	
AND ORDER ADOPTING A STATE)	
CERTIFICATION PROCESS)	

STATE OF OKLAHOMA)
) ss.
 COUNTY OF OKLAHOMA)

BEFORE ME, the undersigned authority, on this day personally appeared Thomas A. Coates of Dobson Cellular Systems, Inc. ("Dobson" or the "Company"), who on his oath depose and said:

1. My name is Thomas A. Coates. I am employed by Dobson in the position of Vice President, Corporate Development. In this position, I am personally familiar with the Federal Universal Service support received by the Company and how the Company uses these funds.

2. Dobson was designated as an eligible telecommunications carrier by the Public Utility Commission of Texas in Docket No. 29144 by order dated February 2, 2005.

3. The Federal Universal Service support funds received by Dobson are used only for the provision, maintenance and upgrading of facilities and services for which the support is intended, as designated by the Federal Communications Commission consistent with Section 254(e) of the Federal Telecommunications Act. These funds will be used to provide the following supported services as designated in 47 C.F.R. § 54.101 which are available throughout the areas where Dobson is currently designated as an ETC:

(a) voice grade access to the public switched network;

- (b) local usage;
- (c) dual tone multi-frequency signaling or its functional equivalent;
- (d) single-party service or its functional equivalent;
- (e) access to emergency services, including 911 and enhanced 911 service;
- (f) access to operator services;
- (g) access to interexchange service;
- (h) access to directory assistance;
- (i) toll blocking or toll limitation control for qualifying low-income customers;

4. The matters addressed above are within my personal knowledge and are true and correct.

DOBSON CELLULAR SYSTEMS, INC.

By: Thomas A. Coates
Thomas A. Coates
Vice President, Corporate Development

Date: MARCH 29 2005

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned authority, on this the 29th day of March, 2005.

Mary L. McCallip
Notary Public
State of Oklahoma

SEAL:



1754137v1

March 2005

Irene Flannery
Vice President – High Cost
& Low Income Division
Universal Service Administrative Company
2120 L Street, N.W.
Suite 600
Washington, D.C. 20037

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 – 12th Street, S.W.
Washington, D.C. 20554

Irene Flannery
Vice President – High Cost
& Low Income Division
Universal Service Administrative Company
444 Hoes Lane
RRC 4A1060
Piscataway, NJ 08854

**Re: CC Docket 96-45, Federal-State Joint Board on Universal Service
Certification of Dobson Cellular Systems, Inc. (47 C.F.R. § 54.314)
PUC Docket No. 29144; SOAH Docket No. 473-04-4450**

Ms. Dortch and Ms. Flannery:

By Order dated February 2, 2005, the Public Utility Commission of Texas ("PUC") designated Dobson Cellular Systems, Inc. (Dobson) as an eligible telecommunications carrier (ETC) in the State of Texas pursuant to 47 U.S.C. § 214(e)(2). PUC's Order designating Dobson as an ETC is enclosed herewith as **Exhibit 1**. This letter is PUC's certification to the Federal Communications Commission (FCC) and Universal Service Administrative Company (USAC) that all federal high-cost fund (HCF) support provided to Dobson in Texas will be used only for its intended purpose. Filing of this certification by April 1, 2005 will ensure HCF support to Dobson for the third and fourth quarters of 2005, pursuant to 47 C.F.R. § 54.314(d)(3).

The FCC has not specified a mechanism by which such certification is to be accomplished. However, PUC has previously utilized the instant process of sworn affidavits from eligible carriers. PUC has received an affidavit from Dobson certifying that all federal high cost universal service support received by the Company will be used pursuant to Section 254(e) of the Communications Act. A copy of Dobson's certification is enclosed herewith as **Exhibit 2**.

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EXHIBIT B

Relying on this sworn affidavit, PUC hereby certifies that all federal high cost universal service support received by Dobson will be used only for the provision, maintenance and upgrading of facilities and services for which the support is intended. This certification applies only for support provided in calendar year 2005 and is not effective for purposes of the Industry Telephone Company, Inc. study area (SAC 442093).

If you have any questions or concerns regarding this certification, please contact me at your convenience.

By the Commission

Secretary to the Commission

Enclosures

cc: Records
Phil Schenkenberg, Esq.
Elizabeth Drews, Esq.
Counsel for Dobson Cellular Systems, Inc.

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EXHIBIT C

The Texas PUC's April 7, 2005 Order Approving Certification



Control Number: 24481



Item Number: 320

Addendum StartPage: 0

DOCKET NO. 24481

DESIGNATION OF COMMON § PUBLIC UTILITY COMMISSION
CARRIERS AS ELIGIBLE §
TELECOMMUNICATIONS CARRIERS § OF TEXAS
(ETC) TO RECEIVE FEDERAL §
UNIVERSAL FUNDS PURSUANT TO §
THE FEDERAL COMMUNICATIONS §
COMMISSION'S FOURTEENTH §
REPORT AND ORDER ADOPTING A §
STATE CERTIFICATION PROCESS §

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ORDER NO. 12
APPROVING REQUEST FOR SUPPORT IN CERTAIN STUDY AREAS

Background. On February 2, 2005, a Final Order was issued in Docket No. 29144¹ granting Dobson Cellular Systems, Inc. (Dobson) designation as an eligible telecommunications carrier (ETC) for the purpose of receiving federal universal service fund (FUSF) support for the study areas of Colorado Valley Telephone Cooperative, Inc., Comanche County Telephone Company, Ganado Telephone Company, and Industry Telephone Company. The Final Order conditioned Dobson's receipt of FUSF in the Industry Telephone Company study area "upon approval of a compliance filing showing that Dobson's implementation of Phase II E911 service in that area meets federal requirements."

On March 29, 2005, Dobson filed a motion for expedited approval of certification to receive FUSF. Dobson provided an affidavit pursuant to P.U.C. SUBST. R. 26.418(j) certifying its use of federal high cost support (FUSF HCF) for the year 2005. P.U.C. SUBST. R. 26.418(j) provides that carriers not meeting the September 1, 2004 deadline for the Commission's certification to the Federal Communications Commission (FCC) may make a late filing to be subsequently provided to the universal service administration corporation (USAC) and FCC by the Commission, allowing the carrier to receive appropriate funding support. Dobson also provided Exhibit B. Exhibit is a letter directed to the FCC and USAC

¹ Application of Dobson Cellular Systems Inc. for Designation as an Eligible Telecommunications Carrier (ETC) Pursuant to 47 U.S.C. 241 (e) and P.U.C. SUBST. R. 26.418, Docket No. 29144 (Feb. 2, 2005).

directing that Dobson be recognized as certified for FUSF HCF pursuant to the FCC's requirements for the third and fourth quarter of 2005 but not effective in the Industry Telephone Company study area.

On April 4, 2005, amended by a filing on April 5, 2005, Commission Staff (Staff) filed their recommendation regarding Dobson's motion for expedited approval of certification. Staff recommended that Dobson's request for FUSF HCF support for the federal study areas of Colorado Valley Telephone Cooperative, Inc., Comanche County Telephone Company, Inc., and Ganado Telephone Company, Inc. be granted. Staff stated that it will advise the USAC and FCC administrators that Dobson's ETC designation has been granted.

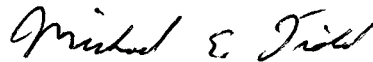
In regard to the situation related to the Industry Telephone study area, Staff stated that it is prepared to verify Dobson's designation as an ETC in the Industry study area and to provide USAC and FCC with the appropriate notice once (1) Dobson provides the Commission with its necessary annual affidavit regarding the appropriate use of such funds; and (2) Dobson provides the Commission with an affidavit attesting that it is in compliance with all FCC Phase II E911 requirements for the Industry study areas as required by the Final Order in Docket No. 29144. Staff recommended that no action be taken in either Docket No. 29144 or Docket No. 24481 at this time with regard to the Industry study area.

Therefore, based on Staff's recommendation, Dobson's request for FUSF HCF support for the federal study areas of Colorado Valley Telephone Cooperative, Inc., Comanche County Telephone Company, Inc., and Ganado Telephone Company, Inc. is granted. Staff will advise the USAC and FCC administrators that Dobson's ETC designation has been granted.

No action will be taken at this time in either Docket No. 29144 or Docket No. 24481 with regard to the Industry study areas. At such time that Dobson makes its compliance filing satisfying the Final Order contingency, Staff will provide the necessary letter of approval to be processed for the receipt of FUSF support in the Industry study area.

SIGNED AT AUSTIN, TEXAS on this the 7th day of April 2005.

PUBLIC UTILITY COMMISSION OF TEXAS



**MICHAEL E. FIELD
DIRECTOR, DOCKET MANAGEMENT
POLICY DEVELOPMENT DIVISION**

EXHIBIT D

The Texas PUC's April 26, 2005 Certification Letter

Julie Parsley
Commissioner

Paul Hudson
Chairman

Barry T. Smitherman
Commissioner

W. Lane Lanford
Executive Director



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Public Utility Commission of Texas

Marlene H. Dortch - Secretary
Federal Communications Commission
445 Twelfth Street, S.W. - TWA 325
Washington, D.C. 20554

Irene Flannery - Vice-President of High Cost and Low Income Divisions
Universal Service Administrative Company
2000 L. Street, NW - Suite 200
Washington, D.C. 20036

April 26, 2005

RE: Federal-State Joint Board on Universal Service, CC Docket No. 96-45

TX PUC Project No. 25787 - FCC Letters Regarding ETC Designation Pursuant to FTA '96 §214(e) (2)

Docket No. 29144 – Application of Dobson cellular Systems, Inc. for designation as an Eligible Telecommunications Carrier Pursuant to 47 U.S.C. 241(e) and P.U.C. Subst. R. 26.418

Docket No. 24481 – Designation of Common Carriers as Eligible Telecommunications Carrier to receive Federal Universal Funds Pursuant to the Federal Communications Commission's Fourteenth Report and Order Adopting A State Certification Process

Amendment of Dobson Cellular Systems, Inc. - ETC Designation for Rural ILEC Service Areas

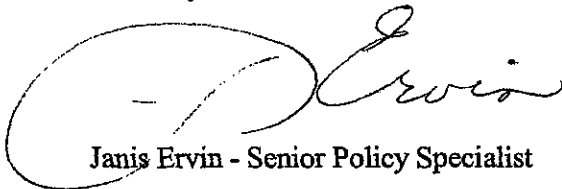
Pursuant to Section 214(e) (2) of the Communications Act of 1934, as amended (the "Act") and 47 C.F.R. sections 54.201 – 54.203, the Texas Public Utility Commission (TPUC) has granted an amendment to Dobson Cellular Systems, Inc.'s (Dobson's) eligible telecommunications carrier (ETC) designation. Previously the Commission's *Final Order No. 3* in Docket No. 28462, issued on January 14, 2005 granted Dobson designation for the

non-rural ILEC service areas within Verizon Southwest and Southwestern Bell Telephone (d/b/a SBC) territories.

This letter advises that Dobson has been granted an amendment of its ETC designation for the rural ILEC service areas within Colorado Valley Telephone Cooperative, Inc., Comanche County Telephone Company, Inc., Ganado Telephone Company, Inc territories. Please see the attached *Final Order*, Docket No. 29144, issued February 2, 2005, and *Order No. 12*, Docket No. 24481, issued on April 7, 2005. Please note that Dobson's request for support within the territory of Industry Telephone Company, Inc. study area (SAC No. 442093) is pending and, if approved, will be addressed as an additional amendment at a later date.

If you require any additional information please call Janis Ervin at (512)-936-7372.

Sincerely,

A handwritten signature in cursive script, appearing to read "Janis Ervin", is written over a large, loopy circular flourish.

Janis Ervin - Senior Policy Specialist

Telecommunications Division - Texas Public Utility Commission

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